

# ■ Executive Summary

The attempted recall of Governor Gavin Newsom, which produced California's second gubernatorial recall election in less than 20 years, focused attention on the recall system and on whether that system requires reform.

The Little Hoover Commission launched a study to review California's system for recalling state officials in the fall of 2021. In this report, the Commission evaluates the state's recall process, examines the advantages and drawbacks of different recall reforms, and makes recommendations to strengthen the recall system.

## California's Recall in Historical and Comparative Contexts

The recall came to state government in California in 1911 as a means to advance the Progressive agenda and as an assertion of popular sovereignty. Since the introduction of the recall, there have been 179 attempts to recall state officials. Eleven of these triggered an election and six led to an official being removed from office. Recalls are often attempted, but they rarely qualify for the ballot.

Nevertheless, among the 19 states that allow for the recall of state officials, California has had the second highest number of recall elections. Moreover, half of all gubernatorial recall elections in American history have taken place in California in the last 20 years. This may be because most states have more stringent requirements to trigger a statewide recall election than California, though due to its large population California requires recall proponents to obtain a higher absolute number of signatures than other states.

## Recall Reform: The Big Issues

Critiques of the recall system focus around two issues: the ease of qualifying a recall for the ballot and the potential for undemocratic outcomes.

### IT IS TOO EASY FOR A STATEWIDE RECALL TO REACH THE BALLOT

The recall allows voters to discharge an office-holder for any reason. It is, however, a last resort that should be reserved for exceptional circumstances.

Multiple gubernatorial recall elections indicate that California's existing signature requirement for recalling statewide office-holders (12 percent of the vote in the last election for the office) no longer provides an adequate barrier against potential abuse or overuse of the recall. It also creates an unnecessarily unstable threshold for triggering a recall election. Setting the signature threshold for statewide recalls at 10 percent of registered voters would provide greater consistency. It would also help deter overuse of the recall by increasing the number of signatures required to initiate a recall election.

### A DEMOCRATIC OUTCOME

California's existing recall process allows a replacement candidate to win office while receiving fewer votes than the recalled incumbent. This can encourage tactical use of the recall to overturn the results of regular elections.

The Commission examined multiple reforms to address the potential for undemocratic outcomes:

- *A "Snap" Special Recall Election.* This approach, in which the official targeted for recall is placed on the ballot with all potential replacements, guarantees that the candidate who receives the most votes wins the election. It also simplifies the recall process and generally disincentivizes tactical use of the recall.
- *A Top-Two Runoff.* This ensures that the winner receives a majority of the votes. But this approach could result in a runoff between two candidates who are unpopular with most voters. A runoff would also add to the expense and length of the recall process.
- *A Separate Replacement Election.* This would eliminate the incentive for targeted officials

to clear the field of co-partisans. However, by separating the recall and replacement elections, this approach raises concerns around cost, administrative burden, and voter turnout.

- *Replacement as with a Vacancy Caused by Other Means.* In gubernatorial recalls in California, this would mean automatic succession by the Lieutenant Governor. This approach could impact the ability of lieutenant governors to work effectively with governors and could encourage tactical use of the recall if the governor and lieutenant governor are of different parties. It would also require special elections to replace recalled legislators, extending the timeframe of the recall process and posing issues relating to voter turnout.

The Commission concludes that the snap recall election best protects the recall against undemocratic outcomes, since it ensures that an official is recalled only if voters prefer one of the replacement candidates over that officer.

## Procedural Changes

The Commission also finds that procedural aspects of the recall need revision:

- *Timeframe for Conducting Recall Elections.* The current timeframe to hold a recall election does not reflect the administrative realities of contemporary elections and puts enormous pressure on county elections officials.
- *When Office-Holders May Be Recalled.* California does not limit recall proceedings at the start or end of an office-holder's term, creating the potential for continuous recall attempts.
- *Nomination of Replacement Candidates.* Existing procedures for nominating replacement candidate lack statutory clarity and set a low bar for candidates to enter the replacement election.

## Recommendations

The recall is a popular tool of electoral accountability that affirms voters' power over their elected representatives. The following reforms will strengthen the recall system by improving administration of the recall and better balancing voters' right to recall officials with protection for electoral integrity and democratic principles:

**Recommendation 1:** The Legislature should refer a constitutional amendment to the voters in November 2022 raising the signature requirement for triggering a recall election involving a statewide officer to 10 percent of the number of registered voters.

**Recommendation 2:** The Legislature should refer Senate Constitutional Amendment 3 to the voters in November 2022. This proposed amendment would replace the existing recall process with a "snap" recall election.

**Recommendation 3:** The Legislature should refer a constitutional amendment to the voters in November 2022, extending the timeframe for conducting recall elections to no less than 88 days and no more than 125 days.

**Recommendation 4:** The Legislature should refer a constitutional amendment to the voters to prohibit the initiation of recall proceedings against state office-holders during the first 90 days and the last six months of their term of office.

**Recommendation 5:** The Legislature should refer constitutional amendments relating to recall reform to the voters as separate propositions.

**Recommendation 6:** The Legislature should clarify the nomination standard for recall replacement candidates.